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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,201	06/27/2000	David Black	E0295/7146	4782

7590 08/28/2003

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EXAMINER

PEYTON, TAMMARA R

ART UNIT

PAPER NUMBER

2182

6

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/605,201	BLACK, DAVID
Examiner	Art Unit	
Tammara R Peyton	2182	

PR3

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 18 June 2003.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-15 is/are allowed.
- 6) Claim(s) 16-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by *Fitzgerald, V et al.* (US 5,787,485).

2. As per claim 16, *Fitzgerald* teaches a host comprising:

- a processing unit (45, Fig.1) ; and
- a memory interface module (controller 1 (70) + controller 2 (85), Fig. 1) to permit accesses to a logical entity to be made to one physical storage location (10) for read request and to a different physical storage location (20) for a write request.

(Abstract, col. 1, lines 29-col. 2, lines 1-41, Figs. 1-4)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 20-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over *McBrearty et al.*, (US 6,216,211).

4. As per claim 20, 23, 24, and 26, *McBrearty* teaches a storage management controller for computer storage system that includes a plurality of storage elements, the storage management controller comprising:

- an interface module (Logical Volume Memory, 30, Fig. 1, 2) to communicate with the storage elements; and
- an entity movement manager (Logical Volume Memory, 30, Fig. 1, 2) to control separate moving of a read location and a write location for a specified logical entity.

5. *McBrearty* teaches a method of creating a copy of a logical entity and moving all reads of the logical entity from a backup/primary storage element to mirror backup storage element (Mirror II or Mirror III). During the read operation, write operations are being mirrored to a second or third mirror backup storage element. Those write block operations are marked stale, during the copying of the read operations. When the read operations are completed, the entry point thereto is deleted and the write block operations that were marked stale on the mirror backup storage are then resynchronized, i.e. updated. It would have been obvious to one of ordinary skill that

*McBrearty* teaches that updated write operations are separately moved to the mirror (Mirror II or Mirror III) backup storage. (Abstract, col. 2, lines 54-60, col. 5, lines 47-67, col. 6, lines 32- col. 7, lines 1-64)

6. As per claims 21, *McBrearty* teaches of assigning an ID (minor number) for the logical volume. (*McBrearty*, col. 5, lines 10-14)
7. As per claims 27 and 28, *McBrearty* does not expressly teach wherein the logical could be a hyper-volume or striped volume. However, such volume methods are well known in the art, thereby making use of these methods obvious.
8. As per claim 29, *McBrearty* teaches wherein the logical entity is a partition.
9. As per claim 22, *McBrearty* does not expressly teach wherein logical entity IDs is stored in a database. *McBrearty* teaches of storing the logical entity IDs in system memory. However, one of ordinary skill would readily recognize that it would not be out of the scope of the *McBrearty* system to store the logical entity IDs in a separate database. Doing so would further add flexibility to the system.
10. As per claims 25 and 30, *McBrearty* teaches the means for creating a copy of the logical entity on the second physical storage locations; means for moving all reads of the logical entity from each of the first physical storage to the second physical storage

location; and means for moving all writes to the logical entity to the second physical storage location, after all of the reads have been moved to the second physical storage location.

***Allowable Subject Matter***

Claims 1-15 are allowed over the prior art.

Claims 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if added to the rejected independent claim.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (703) 306-5508. The examiner can normally be reached between 6:30 - 4:00 from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (703) 308-3301. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

Faxes for Official/formal communications intended for entry should be sent to:

(703) 746-7238, After Final (703)746-7239

or, for informal or draft communications, to:

(703) 746-7240 (please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to:

Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor

(Receptionist).

Tammara Peyton

August 25, 2003

A handwritten signature in black ink, appearing to read "Tammara Peyton". The signature is fluid and cursive, with a large, stylized "T" at the beginning.